

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALBERT REGINALD ROBINSON,

Plaintiff,

v.

CHRISTINE HENSEN,

Defendant.

Case No. 2:17-cv-130

HON. JANET T. NEFF

OPINION AND ORDER

Plaintiff filed this prisoner civil rights action pursuant to 42 U.S.C. § 1983 involving a retaliation claim against Defendant Hensen, a law library clerk at the Michigan Department of Corrections (MDOC).¹ The matter was referred to the Magistrate Judge. Defendant filed a motion for summary judgment, and the Magistrate Judge issued a Report and Recommendation (R&R), recommending this Court grant Defendant's motion for summary judgment and dismiss this case. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff enumerates fourteen purported objections, many of which challenge statements of the general circumstances or evidence and present no specific objections to the Report and

¹ The Court previously dismissed Plaintiff's due process and equal protection claims.

Recommendation (Pl. Obj., ECF No. 48). Essentially, Plaintiff objects to the Magistrate Judge's ultimate recommendation to grant Defendant's motion for summary judgment (*id.* at PageID.323).

In key part, Plaintiff states:

9. Hansen claims she was just "applying prison procedure" when asking Plaintiff to leave. Hansen's supervisor explained that the policy is not enforced 100% if a good reason is at hand. So, I object to page 4 and 5;

12. I object to page 7 and 8 which [Magistrate Judge] Vermaat recommended granting of summary judgment. He overlooked all of Plaintiff's exhibits and evidence. Plaintiff recommends proceeding to trial.

(*Id.*). Plaintiff's objections lack merit. As the Magistrate Judge observed, Plaintiff's case is not distinguishable from *Meeks v. Schofield*, 625 F. App'x 697, 701-02 (6th Cir. 2015), in which "the Sixth Circuit held that 'getting kicked out of the law library on one occasion was a de minimis act that fails to rise to the level of adverse conduct'" (R&R, ECF No. 47 at PageID.318). Contrary to Plaintiff's objections, the Magistrate Judge properly determined that Plaintiff cannot show that an "adverse action" was taken against him when he was kicked out of the law library after he was admittedly late for his appointment (*id.*). Further, Plaintiff failed to show Defendant Henson acted with retaliatory intent: "Defendant Hensen [merely] applied prison operating procedure ..." (*id.*). The Magistrate Judge properly concluded that Plaintiff failed to establish a retaliation claim, and that in any event, Defendant is entitled to qualified immunity.

Although Plaintiff otherwise objects to several factual characterizations by the Magistrate Judge and alleged evidentiary shortcomings, the Court finds such objections without merit, and regardless, they do not undermine the Magistrate Judge's legal analysis or conclusions. Therefore, Plaintiff's objections are denied.

Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court. All claims in this case having now been resolved, a judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, pursuant to 28 U.S.C. § 1915(a)(3), this Court must certify whether an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). The Court does not certify that an appeal would not be taken in good faith. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 48) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 47) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 39) is GRANTED.

IT IS FURTHER ORDERED that this Court does not certify pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: September 8, 2020

/s/ Janet T. Neff

JANET T. NEFF
United States District Judge